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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,118	10/11/2005	Nicolas Goujon	14.0207-PCT-US	2655

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WesternGeco
Intellectual Property Department
P O Box 2469
Houston, TX 77252-2469

EXAMINER

MCELHENY JR, DONALD E

ART UNIT	PAPER NUMBER
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2857

MAIL DATE	DELIVERY MODE
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08/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,118

Applicant(s)

GOUJON ET AL.

Examiner

Donald E. McElheny, Jr.

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☒ Claim(s) 6-10, 12-19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 01/16/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

1. Claims 6-10, 12-19 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend upon another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 6-10, 12-19 are not been further treated on the merits as to prior art rejections.

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 18 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter and the claimed invention lacks patentable utility.

Please be advised that the "Interim Guidelines for Examination of Patent Applications for Subject Matter Eligibility" was signed on Oct 26, 2005 and posted on the uspto.gov website. The link is:

<http://www.uspto.gov/web/offices/pac/dapp/ogsheet.html>

Also see updated (Eighth Edition, Revision 5 (August 2006)) MPEP 2106, which covers algorithm based and computer implemented inventions and the manner in which they may be claimed and find statutory basis under 35 U.S.C. 101.

Claim 18 is clearly directed to solely "A program", which is explicitly covered in the MPEP, Guidelines, and case law as non-statutory subject matter not falling within one of the statutory categories of invention permitted under 35 U.S.C. 101.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 6-10, and 12-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, and under 35 U.S.C. 112, fourth paragraph as being improper dependent claims.

Claims 6-10, and 12-24 are improper dependent claims because they are directed not to the subject matter of the earliest parent claim and then further restrict and define that claim combination but begin with different subject matter and then reference and include the subject matter of the parent claim. Subject to the fourth paragraph of 35 U.S.C. 112, a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. Furthermore, these claims are indefinite for what combination and limitations they are truly directed and intended to cover, as some of these claims are directed to different statutory categories of invention in their implied or intended combination(s). For example, when a claim (such as 16) is directed to "A storage medium comprising a program for a data processor of an apparatus as defined in claim 15" such never even sets forth any method steps and thus nothing is claimed that would constitute any program steps or method steps, making the claim indefinite as to what it even begins to cover. Similar problems exist with other hybrid claims.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-3, and 11 are rejected under 35 U.S.C. 102(a) & (b) as being clearly anticipated by Hutchins (GB 2030400 A).

8. Claims 1, 3/1, 5/1,3 and 11 are rejected under 35 U.S.C. 102(a) & (b) as being clearly anticipated by Bednar (WO 00/55648).

9. Claims 1-4, and 11 are rejected under 35 U.S.C. 102(a) & (b) as being clearly anticipated by Berni (US Patent 4437175).

10. Further consideration of prior art upon dependent claims will not be entertained as they are improper dependent claims as discussed supra in the claim objections.

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However, take note the prior art of record still meets these claims as apparent from at least the prior art rejections of such claims in corresponding foreign applications.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald McElheny, Jr. whose telephone number is 571-272-2218. The examiner can normally be reached on Monday-Thursday from 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos, can be reached on weekdays at telephone number 571-272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Donald E. McElheny, Jr.
Primary Examiner
Art Unit 2857